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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF ARIZONA

12 League of United Latin American Citizens
13 Arizona; Arizona Students' Association,

14 Plaintiffs,

15 v.

16 Michele Reagan, in her official capacity as
17 Secretary of State of Arizona; Adrian
18 Fontes, in his official capacity as Maricopa
County Recorder,

19 Defendants.

20
21 Case No. 2:17-CV-04102-DGC

22 **JOINT MOTION FOR ENTRY OF
23 CONSENT DECREE**

24 (Expedited Relief Requested)

25

26 Come now, Plaintiff League of United Latin American Citizens of Arizona ("LULAC-
27 Arizona"), Plaintiff Arizona Students' Association ("ASA"), Defendant Michele Reagan, in her
28 official capacity as Secretary of State of Arizona (the "Secretary"), and Defendant Adrian Fontes,
in his official capacity as Maricopa County Recorder ("Recorder Fontes"), hereinafter the
"Parties," by and through their attorneys of record, and hereby request that the Court approve and
enter the attached Consent Decree (Exhibit A) as an Order of this Court.

1 On November 7, 2017, LULAC-Arizona and ASA initiated this action against the
2 Secretary and Recorder Fontes. The complaint alleged that Arizona's dual voter registration
3 policies violate the First and Fourteenth Amendments to the United States Constitution.
4 Specifically, LULAC-Arizona and ASA alleged that Arizona treats voter registration applicants
5 differently depending on whether they use Arizona's state registration form (the "State Form") or
6 the national registration form (the "Federal Form"). At the time the lawsuit was filed and currently,
7 fourteen of Arizona's County Recorders reject State Form applications submitted without valid
8 documentary proof of citizenship ("DPOC"). Federal law requires the County Recorders to accept
9 Federal Form applications, even when they are submitted without DPOC. The Motor Vehicles
10 Department ("MVD") Proxy Table is then electronically checked through an automated process
11 to determine whether the Federal Form applicants have a valid driver's license, which indicates
12 that DPOC is supposed to be on file with the MVD. Those with DPOC on file are eligible to vote
13 in both state and federal elections ("Full Ballot Voter"). Those who do not have DPOC on file
14 with the MVD remained as Fed Only Voters, able to vote in federal elections.
15

16 As a result, whether one who does not present valid DPOC is registered to vote in federal
17 elections is entirely dependent on which form the applicant uses to register. Those using the
18 Federal Form, but not providing DPOC, are registered to vote in federal elections; and, depending
19 on the results of the Secretary's automated review of the MVD database, may be registered to
20 vote in state elections as well. But those using the State Form, and not providing valid DPOC, are
21 not registered to vote in any elections because the application is rejected in its entirety. LULAC-
22 Arizona and ASA alleged that this dual voter registration process violated the First and Fourteenth
23 Amendments.
24

1 The Secretary denies that Arizona's voter registration policies violate the First and
2 Fourteenth Amendments or are otherwise illegal under state or federal law. The Secretary asserts
3 that Federal and State Form applicants are not similarly situated for equal protection purposes.
4
5 The Secretary asserts that Arizona is constitutionally permitted to require those applying to
6 register to vote using the State Form to personally provide DPOC at the time that they submit their
7 State Form. The Secretary further asserts that there is no constitutional or statutory requirement
8 that Arizona election officials register applicants for federal elections when they have chosen to
9 use the State Form to register to vote rather than the Federal Form.
10

11 Nevertheless, the Secretary and Recorder Fontes desire to make it as easy possible for
12 Arizona's citizens to register to vote, while remaining consistent with Arizona and federal law
13 and also providing necessary safeguards to deter those who would commit voter registration fraud.
14 Having reviewed the applicable law, the Secretary and Recorder Fontes have concluded that
15 current technology allows the Secretary, Recorder Fontes, and the other Arizona County
16 Recorders to treat State Form applications exactly as they treat Federal Form applications, and
17 that because of current technology such treatment is consistent with the provisions of Arizona
18 law, including the requirements of Proposition 200, codified at A.R.S. §§ 16-166(F) and 16-
19 152(A)(23). The Secretary and Recorder Fontes agree that treating Federal Form and State Form
20 applications the same will make it easier for Arizona's citizens to register to vote, while also
21 providing important safeguards to prevent unlawful voter registration. Accordingly, on February
22 8, 2018, the Secretary and Recorder Fontes through their counsel notified counsel for LULAC-
23 Arizona and ASA of their desire to enter into an agreement that will resolve the underlying
24 litigation and also benefit Arizona's citizens.
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1 The Parties have negotiated in good faith and agree to the entry of this Consent Decree as
 2 an appropriate resolution of all claims. The Consent Decree would resolve all substantive claims
 3 of the Plaintiffs in the above-captioned case.¹ The Court should approve the Consent Decree
 4 because it is fair, reasonable, in the public interest, and will benefit Arizona's voters and elections.
 5 Of note, the deadlines and compliance timelines included in the Consent Decree were carefully
 6 negotiated to ensure that eligible voters in Arizona would benefit from the Consent Decree before
 7 the upcoming August 2018 Primary Elections. In light of the foregoing, the Parties respectfully
 8 request that this Court approve the Consent Decree and enter it as an Order of this Court as soon
 9 as possible.

12 Dated: June 4, 2018

13 Respectfully Submitted,

14 /s/ Danielle Lang

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¹ The matter of Plaintiffs' attorneys' fees and costs has not been fully resolved. As agreed upon in the consent decree, the Parties will continue to negotiate in good faith and if the matter is not resolved, Plaintiffs will file a motion for fees and costs within 45 days after entry of this Consent Decree.

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CERTIFICATE OF SERVICE

I hereby certify that, on June 4, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ *Danielle Lang*
Danielle Lang
Counsel for Plaintiffs